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11 Attorneys for Plaintiff United States

12 IN THE UNITED STATES DISTRICT COURT  
13 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
14 WESTERN DIVISION

15  
16 UNITED STATES OF AMERICA,

17 Plaintiff,

18 v.

19 SHELL OIL COMPANY, SHELL OIL  
20 PRODUCTS LLC (AS SUCCESSOR IN  
INTEREST TO SHELL OIL PRODUCTS  
21 COMPANY), EQUILON ENTERPRISES  
LLC, SHELL PIPELINE COMPANY LP  
(FOR ITSELF AND AS SUCCESSOR IN  
22 INTEREST TO EQUILON PIPELINE  
COMPANY), TMR COMPANY  
(FORMERLY KNOWN AS TEXACO  
23 REFINING & MARKETING COMPANY,  
CHEVRONTXACO CORPORATION,  
24 CHEVRON USA INC., EXXON MOBIL  
CORPORATION, MOBIL OIL  
25 CORPORATION, EXXONMOBIL  
CORPORATION, THRIFTY OIL CO., AND  
26 BEST CALIFORNIA GAS, LTD.,

27 Defendants.  
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CIVIL ACTION NO.  
COMPLAINT

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## I. COMPLAINT

The United States of America ("United States"), by and through the undersigned attorneys, by the authority of the Attorney General of the United States, and at the request of the Administrator of the United States Environmental Protection Agency ("EPA"), alleges as follows:

## II. STATEMENT OF THE CASE

1. This civil action is brought by the United States pursuant to Sections 9003(h)(2) and 9003(h)(6)(A) of the Resource Conservation and Recovery Act ("RCRA")(formerly the Solid Waste Disposal Act), as amended, 42 U.S.C. §§ 6991b(h)(2) and 6991b(h)(6)(A), and seeks reimbursement of monies, together with the accrued interest thereon, utilized by EPA from the Leaking Underground Storage Tank Trust Fund in connection with the release of petroleum containing methyl tertiary-butyl ether ("MTBE") at or near the Charnock Sub-Basin.

## III. JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1367, 1345, and RCRA.

3. Venue is proper in this district pursuant to 42 U.S.C. § 6991e(a)(1), and 28 U.S.C. § 1391(b), because the claims arose and the events giving rise to this action occurred in the Central District of California.

## IV. PARTIES

4. Plaintiff is the United States of America, on behalf of EPA.

5. On information and belief, the Defendants, Shell Oil Company, Shell Oil Products LLC (as successor in interest to Shell Oil Products Company), Equilon Enterprises LLC, Shell Pipeline Company LP (for itself and as successor in interest to Equilon Pipeline Company), TMR Company (formerly known as

1 Texaco Refining & Marketing Company, ChevronTexaco Corporation, Chevron  
2 USA Inc., Exxon Mobil Corporation, Mobil Oil Corporation, ExxonMobil  
3 Corporation, Thrifty Oil Co., and Best California Gas, Ltd., (collectively referred  
4 to as the “Defendants”) are corporations authorized to conduct business in the  
5 State of California.

6 V. GENERAL ALLEGATIONS

7 6. In 1995, the City of Santa Monica (“City”) discovered the gasoline  
8 additive MTBE in drinking water supply wells at its Charnock Sub-Basin  
9 Wellfield. At that time, the Charnock Sub-Basin Wellfield had five operating  
10 drinking water supply wells that provided approximately 45 percent of the  
11 drinking water for the City’s approximately 87,000 customers. In 1996, levels of  
12 MTBE at the City’s Charnock Sub-Basin Wellfield rose to more than 600 parts per  
13 billion (“ppb”) and, by June 13, 1996, all five drinking water supply wells at the  
14 Charnock Sub-Basin Wellfield were shut down due to MTBE and other petroleum  
15 contamination.

16 7. In October, 1996, following the shut down of the City’s  
17 Charnock Sub-Basin Wellfield, the Southern California Water Company  
18 (“SCWC”), another water purveyor utilizing the Charnock Sub-Basin, shut down  
19 its drinking water wellfield in the Charnock Sub-Basin in order to avoid spreading  
20 the contamination and drawing MTBE and other petroleum contamination toward  
21 the SCWC drinking water wellfield.

22 8. EPA determined that the presence of MTBE and other petroleum  
23 constituents in the Charnock Sub-Basin presented an imminent and substantial  
24 endangerment to the health of persons and the environment as those terms are used  
25 in Section 7003 of RCRA, 42 U.S.C. § 6973. EPA also determined that the  
26 presence of MTBE and other petroleum constituents in the Charnock Sub-Basin  
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1 authorized EPA to take corrective action and enforcement action within the  
2 meaning of Sections 9003(h)(2) and 9003(h)(6)(A) of RCRA,  
3 42 U.S.C. §§ 6991b(h)(2) and 6991b(h)(6)(A).

4 9. EPA determined that the releases of MTBE and other petroleum  
5 constituents from underground storage tanks owned or operated by Defendants  
6 contributed to the contamination of the Charnock Sub-Basin and the shut down of  
7 the City and the SCWC drinking water wellfields.

8 10. EPA utilized monies from the Leaking Underground Storage Tank  
9 Trust Fund for corrective action and enforcement activities in connection with the  
10 release of petroleum containing MTBE at or near the Charnock Sub-Basin from  
11 underground storage tanks owned or operated by Defendants within the meaning  
12 of Sections 9003(h)(2) and 9003(h)(6)(A) of RCRA, 42 U.S.C. §§ 6991b(h)(2)  
13 and 6991b(h)(6)(A).

#### 14 VI. STATUTORY BACKGROUND

15 11. RCRA established a comprehensive regulatory program for  
16 generators of waste and for the management of facilities that treat, store, or  
17 dispose of wastes.

18 12. Section 7003 of RCRA, 42 U.S.C. § 6973(a), provides that upon  
19 receipt of evidence that the past or present handling, storage, treatment,  
20 transportation or disposal of any solid waste or hazardous waste may present an  
21 imminent and substantial endangerment to health or the environment, the United  
22 States may bring suit in the appropriate district court against any person who has  
23 contributed to or is contributing to such handling, storage, treatment,  
24 transportation or disposal to restrain such person from such handling, storage,  
25 treatment, transportation or disposal, to order such person to take such other action  
26 as may be necessary, or both.

1           13.    Section 9003(h)(2) of RCRA, 42 U.S.C. § 6991b(h)(2), authorizes  
2 EPA to undertake corrective action with respect to a release of petroleum into the  
3 environment from an underground storage tank.

4           14.    Section 9003(h)(4) of RCRA, 42 U.S.C. § 6991b(h)(4), provides that  
5 EPA is authorized to issue orders to the owner or operator of an underground  
6 storage tank to carry out Section 9003(h)(1)(A) of RCRA,  
7 42 U.S.C. § 6991b(h)(1)(A), or to carry out regulations issued under  
8 Section 9003(c)(4) of RCRA, 42 U.S.C. § 6991b(c)(4) .

9           15.    Section 9003(h)(6)(A) of RCRA, 42 U.S.C. § 6991b(h)(6)(A),  
10 authorizes EPA to recover costs that have been incurred for undertaking corrective  
11 action or enforcement action with respect to the release of petroleum from an  
12 underground storage tank and that the “owner or operator of such tank” is liable  
13 for such costs.

14           16.    Defendants are “persons” as defined in Section 1004(15) of RCRA,  
15 42 U.S.C. § 6903(15), and 40 C.F.R. § 260.10, whose past or present handling,  
16 storage, treatment, transportation or disposal of “solid wastes” as defined by  
17 Section 1004(27) of RCRA, 42 U.S.C. § 6903(27), contributed to a condition that  
18 presented an imminent and substantial endangerment to health or the environment  
19 as defined by Section 7003 of RCRA, 42 U.S.C. § 6973.

20           17.    MTBE and other petroleum constituents released from underground  
21 storage tanks owned or operated by Defendants’ are “solid wastes” as defined by  
22 Section 1004(27) of RCRA, 42 U.S.C. § 6903(27). These releases contributed to  
23 contamination that presented an imminent and substantial endangerment to health  
24 and the environment, within the meaning of Section 7003 of RCRA,  
25 42 U.S.C. § 6973.

26           18.    MTBE is a constituent of petroleum as defined in Section 9001(8) of  
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1 RCRA, 42 U.S.C. § 6991(8).

2 19. The Defendants are “owners” and/or “operators” of “underground  
3 storage tanks” within the meaning of 42 U.S.C. §§ 6991(1), (3) and (4), and  
4 42 U.S.C. §§ 6991b(h)(2), 6991b(h)(4), and 6991b(h)(6)(A).

5 VII. CLAIM FOR RELIEF

6 20. Paragraphs 1 through 19 are incorporated herein by reference.

7 21. Each Defendant owned or operated an underground storage tank that  
8 released petroleum containing MTBE to the environment within the meaning of  
9 Sections 9003(h)(2) and 9003(h)(6)(A) of RCRA, 42 U.S.C. §§ 6991b(h)(2) and  
10 6991b(h)(6)(A).

11 22. EPA utilized monies from the Leaking Underground Storage Tank  
12 Trust Fund for corrective action and enforcement activities in connection with the  
13 release of petroleum containing MTBE at or near the Charnock Sub-Basin from  
14 underground storage tanks owned or operated by Defendants within the meaning  
15 of Sections 9003(h)(2) and 9003(h)(6)(A) of RCRA, 42 U.S.C. §§ 6991b(h)(2)  
16 and 6991b(h)(6)(A).

17 23. Defendants are liable pursuant to Sections 9003(h)(2) and  
18 9003(h)(6)(A) of RCRA, 42 U.S.C. §§ 6991b(h)(2) and 6991b(h)(6)(A), for  
19 reimbursement of monies, together with the accrued interest thereon, utilized by  
20 EPA from the Leaking Underground Storage Tank Trust Fund in connection with  
21 the release of petroleum containing MTBE at or near the Charnock Sub-Basin.

22 VIII. PRAYER FOR RELIEF

23 WHEREFORE, Plaintiff, the United States of America, respectfully requests  
24 that the Court enter:

25 1. Judgment against the Defendants to reimburse monies, together with the  
26 accrued interest thereon, utilized by EPA from the Leaking Underground Storage  
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1 Tank Trust Fund in connection with the release of petroleum containing MTBE at  
2 or near the Charnock Sub-Basin; and

3 2. An order that grants such other relief as the Court deems appropriate.  
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5 FOR THE UNITED STATES OF AMERICA  
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9 \_\_\_\_\_  
10 Date

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